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United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE INSECTICIDE ACT

[Given pursuant to section 4 of the insecticide act]

1246-1260

[Approved by the Secretary of Agriculture, Washington, D. C., March 30, 1933]

1246. Alleged adulteration and misbranding of Boll-We-Ex. U. S. v. Boll-We-Ex (Inc.). Trial to a jury. Verdict of not guilty. (I. & F. No. 1503. Dom. Nos. 20890, 25951.)

This action was based on two interstate shipments of an insecticide, labeled Boll-We-Ex. Samples taken from one of the shipments were found to contain smaller amounts of the active ingredients (arsenic) and a greater amount of inert ingredients than declared on the labels. The labelings of both shipments of the article represented that it would be an effective remedy against the cotton boll weevil. Tests conducted by this department failed to substantiate the claims that the article would be an effective remedy against the cotton boll weevil.

On September 9, 1929, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against Boll-We-Ex (Inc.), a corporation, Memphis, Tenn., charging violation of the insecticide act of 1910. It was alleged in the information that the said defendant had shipped, on or about May 7, 1927, from Tennessee into Georgia, a quantity of Boll-We-Ex that was misbranded, and that the defendant company had shipped, on or about May 21, 1928, from Tennessee into Louisiana, a quantity of Boll-We-Ex that was adulterated and misbranded.

It was alleged in the information that the portion of the product shipped May 21, 1928, into Louisiana, was adulterated in that the statements, "Tricalcium Arsenate 61.2% * * * Inactive Ingredients 36.2% * * * Total Arsenic (As_2O_5) as Arsenic Pentoxide 35% as Metallic Arsenic 22.8%," borne on the can label, represented that its standard and quality were such that it contained tricalcium arsenate in the proportion of not less than 61.2 per cent; that it contained total arsenic (As_2O_5) in the proportion of not less than 35 per cent; that it contained total arsenic expressed as metallic arsenic in the proportion of not less than 22.8 per cent, and that it contained inactive ingredients, i. e., substances that do not prevent, destroy, repel, or mitigate insects, in the proportion of not more than 36.2 per cent, whereas it was alleged that the article contained less than 61.2 per cent of tricalcium arsenate, that it contained less than 35 per cent of total arsenic (As_2O_5), contained less than 22.8 per cent of total arsenic, expressed as metallic, and contained more than 36.2 per cent of inactive ingredients.

Misbranding of the product shipped May 21, 1928, into Louisiana was alleged for the reason that the above-quoted statements appearing on the can label were false and misleading, and that by reason thereof the article was labeled so as to deceive and mislead the purchaser.

It was further alleged in the information that both shipments of the article were misbranded in that the following statements appearing on the can labels and in the circular shipped with the article, were false and misleading, and that by reason thereof the article was labeled so as to deceive and mislead the purchaser, in that they represented that the article, when used as directed, would be an effective remedy against the cotton boll weevil, whereas it was alleged that the article, when used as directed, would not be an effective remedy against the cotton boll weevil: (Can label, first shipment) "Chemical Analysis of Boll-We-Ex * * * One pound of Boll-We-Ex powder to 6 gallons of water.

Do not add all of the water at once, but a little at a time until a paste is formed, then gradually add the rest of the water, stirring constantly until all the water has been added and the ingredients have become thoroughly mixed. Be sure to stir and strain the solution before putting it in sprayer, otherwise the sprayer is liable to choke up. Plant may be sprayed at any time. We recommend for small acreage the fountain compressed air sprayer, and for large tracts the American horse-drawn force pump sprayers, which we can furnish at a nominal cost. The planter must be guided by the condition of his crop as to the amount of solution required per acre. Stir and mix thoroughly before putting the liquid in sprayer. * * * Complete instructions and directions inside;" (circular, first shipment) "Directions Read Carefully and Fully Mixing Boll-We-Ex should be mixed in the field, as needed in the proportion of one (1) pound Boll-We-Ex powder to six (6) gallons of cold water. The water should be added gradually until a soft paste is formed. To get the best results this paste should stand five (5) minutes, then add the remainder of the water. Spraying machine Mix as needed. Be sure to strain the solution before it goes into the sprayer. Applying Horse Drawn Sprayers Adjust the arms of the machine so that they fit your cotton rows, then adjust by pass valve so that you get the proper amount of Boll-We-Ex to the plant. After making these simple adjustments you are ready to spray your cotton. Strain solution into tank. Hand Sprayers Strain the Boll-We-Ex solution into the tank through the funnel and strainer furnished, and then screw in plug. Open small valve on air tube and proceed to pump up air pressure. When desired pressure is obtained close air valve and you are ready to spray your cotton. When pressure gets too low to deliver the poison in a mist repeat the pumping operation. Leave three or four inches of air space in hand sprayer. Wash out spraying machines thoroughly after using. When adjusting the bypass valve which controls the flow of liquid make the adjustment so that the nozzle will throw out a fine mist to the cotton plant. If the liquid drips off the cotton plant, it is being applied too heavily. Application Every farmer should be guided by the condition of his crop. The first application of Boll-We-Ex should usually be made after the last chopping or just before your cotton blooms, or earlier if any weevils appear. Be sure and apply Boll-We-Ex a few days before the migration period. Plan your additional sprayings so that you will stay within the 24 gallon per acre, per season limit, if possible. From our own experience as well as the experience of customers who have successfully used Boll-We-Ex we have found that the average amount of Boll-We-Ex used per acre per season is 24 gallons. This of course depends upon the weevil infestation of your field. During period of infestation, spraying should be made at intervals of not over two weeks. Boll-We-Ex should cost you approximately \$1.00 per acre per season;" (can label, second shipment) "One pound (or quart) of Boll-We-Ex Powder to six (6) gallons of water; mix in paste form, then add balance of water, * * * Plant should have the first coat when the forms first appear and every fifteen days thereafter until four applications have been made;" (circular, second shipment) "Boll-We-Ex should be mixed in the field, as needed in the proportion of one (1) pound of Boll-We-Ex Powder to six (6) gallons of cold water. * * * The first application of Boll-We-Ex should usually be made after the last chopping or just before your cotton blooms, or earlier if any weevils appear. Be sure and apply Boll-We-Ex a few days before the migration period. * * * we have found that the average amount of Boll-We-Ex used per acre, per season is 24 gallons. This of course depends upon the weevil infestation of your field. During periods of infestation spraying should be made at intervals of not over two weeks."

On June 30, 1932, the case came on for trial before the court and a jury on a plea of not guilty entered on behalf of the defendant company. After hearing the evidence introduced on behalf of the Government and the defendant company, the jury returned a verdict of not guilty.

HENRY A. WALLACE, *Secretary of Agriculture.*

1247. Adulteration and misbranding of Ansbacher's Green Garden dust. U. S. v. Ansbacher-Siegle Corporation. Plea of guilty. Fine, \$75. (I. & F. No. 1566. Dom. No. 30237.)

This action was based on the interstate shipment of a quantity of Ansbacher's Green Garden dust, which contained less Paris green and less total arsenic than declared. The label of the article represented that it would be effective in the control of certain insects, whereas it would not be effective when used as directed.

On September 8, 1932, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against the Ansbacher-Siegle Corporation, New York, N. Y., alleging shipment by said company, in violation of the insecticide act of 1910, on or about July 2, 1930, from the State of New York into the State of Connecticut, of a quantity of the said Ansbacher's Green Garden dust, which was an adulterated and misbranded insecticide other than Paris green and lead arsenate, within the meaning of said act.

It was alleged in the libel that the article was adulterated in that the statements, "Ansbacher's Paris Green not less than 12.5% * * * Total Arsenic expressed as metallic not less than 4.5%," borne on the label, represented that its standard and quality were such that it contained not less than 12.5 per cent of Paris green and not less than 4.5 per cent of total arsenic expressed as metallic, whereas the strength and purity of the article fell below the professed standard and quality under which it was sold, since it contained less than 12.5 per cent of Paris green and less than 4.5 per cent of total arsenic, expressed as metallic.

Misbranding was alleged for the reason that the statements, "Ansbacher's * * * Paris Green not less than 12.5% * * * Total Arsenic expressed as metallic not less than 4.5% * * * Ansbacher's Garden Dust is designed to control certain biting insects * * * on potatoes and other hardy vegetables and truck crops. Dry Application Punch in the semi-perforated holes in the end of the can and dust lightly on potatoes and other hardy vegetables and truck crops. Wet Application Use one pound of garden dust in five gallons of water or three ounces to one gallon of water and apply on potatoes and other hardy vegetables and truck crops," were false and misleading, and by reason of the said statements the article was labeled and branded so as to deceive and mislead the purchaser, since the said statements represented that the article contained not less than 12.5 per cent of Paris green and not less than 4.5 per cent of arsenic, expressed as metallic, and that, when used as directed, it would control the biting insects usually found on potatoes and other hardy vegetables and truck crops, whereas the article contained less than 12.5 per cent of Paris green, less than 4.5 per cent of arsenic, expressed as metallic, and when used as directed, it would not control the biting insects usually found on potatoes and other hardy vegetables and truck crops.

On September 26, 1932, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$75.

HENRY A. WALLACE, *Secretary of Agriculture*.

1248. Adulteration and misbranding of Ansbacher-Green powder. U. S. v. Ansbacher-Siegle Corporation. Plea of guilty. Fine, \$50. (I. & F. No. 1567. Dom. Nos. 9711, 31196.)

This action was based on the interstate shipment of a quantity of Ansbacher-Green powder, which contained Paris green as one of the essential ingredients. Examination showed that the article contained a smaller amount of Paris green than labeled, also that it contained inert ingredients (substances ineffective for the purposes intended) in excess of the amount declared on the label.

On August 25, 1932, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against the Ansbacher-Siegle Corporation, New York, N. Y., alleging shipment by said company in violation of the insecticide act of 1910 on or about March 12, 1931, from the State of New York into the State of Virginia, of a quantity of Ansbacher-Green powder, which was an adulterated and misbranded insecticide and fungicide within the meaning of the said act.

It was alleged in the information that the article was adulterated in that the statements, "Ansbacher's Paris Green 38% to 40% * * * Inert Ingredients 49% to 53%," borne on the labels affixed to the drums, bags, and cartons containing the article, represented that its standard and quality were such that it contained Paris green in the proportion of not less than 38 per cent and contained inert ingredients, namely, substances that do not prevent, destroy, repel, or mitigate insects or fungi, in the proportion of not more than 53 per cent, whereas the strength and purity of the article fell below the professed standard and quality under which it was sold, since it contained less than 38 per cent of Paris green and more than 53 per cent of inert ingredients.

Misbranding was alleged for the reason that the above-quoted statements appearing on the labels were false and misleading, and by reason thereof the article was labeled and branded so as to deceive and mislead the purchaser, since the said statements represented that the article contained not less than 38 per cent of Paris green and not more than 53 per cent of inert ingredients, whereas it did contain less than 38 per cent of Paris green and more than 53 per cent of inert ingredients.

On September 26, 1932, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50.

HENRY A. WALLACE, *Secretary of Agriculture.*

1249. Adulteration and misbranding of liquor cresolis compound. U. S. v. Michel & Pelton Co. Plea of guilty. Fine, \$50. (I. & F. No. 1578. Dom. Nos. 12621, 12778.)

This action was based on the interstate shipment of two lots of liquor cresolis compound, the labels of which represented that the article was of pharmacopoeial standard, and which contained certain coal-tar acids which had been substituted in part for cresol, one of the ingredients of liquor cresolis compound U. S. P. The inert ingredients present in the article were not plainly and correctly declared on the label.

On June 14, 1932, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid, an information against Michel & Pelton Co., a corporation, Emeryville, Calif., charging shipment in interstate commerce in violation of the insecticide act of 1910, of quantities of a product labeled "Liquor Cresolis Compound U. S. P.," which was adulterated and misbranded. It was alleged in the information that the defendant company had shipped a portion of the article on or about September 19, 1931, from the State of California into the State of Oregon, and had shipped the remainder on or about October 3, 1931, from the State of California into the State of Washington.

Adulteration of the article was alleged in the information for the reason that the statement "Liquor Cresolis Compound U. S. P.," with respect to both lots, and the further statement "Inert: Water 15%," with respect to the portion of the product shipped September 19, 1931, represented that the article conformed to the standard for liquor cresolis compound as prescribed by the pharmacopoeia, and that the said portion contained water only as an inert ingredient, whereas the strength and purity of the article fell below the standard and quality under which it was sold, since it did not conform to the standard prescribed by the pharmacopoeia, and the said portion contained glycerin as an inert ingredient in addition to water. Adulteration was alleged with respect to both lots for the further reason that the label of the article represented that it conformed to the pharmacopoeia, that is to say, that it contained, as its acid ingredient, cresol only, whereas other coal-tar acids had been substituted in part for cresol.

Misbranding was alleged for the reason that the statement "Liquor Cresolis Compound, U. S. P.," with respect to both lots of the article, and the statement "Inert: Water 15%," with respect to the lot shipped September 19, 1931, were false and misleading, and by reason thereof the article was labeled so as to deceive and mislead the purchaser, since the article in both shipments failed to conform to the pharmacopoeia, in that other coal-tar acids had been substituted in part for cresol, and the portion shipped September 19, 1931, contained glycerin as an inert ingredient in addition to water.

Misbranding was alleged with respect to the portion of the article shipped October 3, 1931, for the further reason that it consisted partially of inert ingredients, to wit, water and glycerin, i. e., substances that do not prevent, destroy, repel, or mitigate fungi (including bacteria) and the name and percentage amount of each and every one of the said inert ingredients so present therein were not stated plainly and correctly on the label; nor, in lieu thereof, were the names and percentage amounts of each and every substance and ingredient of the article having fungicidal or bactericidal properties and the total percentage of the inert substances so present in the article stated plainly and correctly on the said label.

On July 11, 1932, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50.

HENRY A. WALLACE, *Secretary of Agriculture.*

1250. Adulteration and misbranding of liquor cresolis compound. U. S. v. Two 50-Gallon Drums of Liquor Cresolis Compound. Consent decree of condemnation and forfeiture. Product released under bond. (I. & F. No. 1579. S. No. 263.)

This action involved the interstate shipment of a quantity of liquor cresolis compound, the labels of which represented that the article was of pharmacopoeial standard, and which contained certain coal-tar acids which had been substituted in part for cresol, one of the ingredients of liquor cresolis compound U. S. P.

On April 11, 1932, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of two 50-gallon drums of liquor cresolis compound. It was alleged in the libel that the article had been shipped on or about March 8, 1932, by the Michel & Pelton Co., from Emeryville, Calif., into the State of Oregon; that having been so transported it remained in the original unbroken packages at Portland, Oreg., and that it was adulterated and misbranded in violation of the insecticide act of 1910.

It was alleged in the libel that the article was adulterated in that its strength or purity fell below the professed standard or quality under which it was sold in that other coal-tar acids had been substituted in part for cresol.

Misbranding was alleged for the reason that the article was designated liquor cresolis compound U. S. P., whereas it was not liquor cresolis compound which conformed to the United States Pharmacopoeia in that other coal-tar acids had been substituted in part for cresol.

On October 14, 1932, the Michel & Pelton Co., Emeryville, Calif., having appeared as claimant for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of costs and the execution of a bond in the sum of \$100 conditioned in part that it should not be sold or otherwise disposed of contrary to law.

HENRY A. WALLACE, *Secretary of Agriculture.*

1251. Adulteration and misbranding of Go-4, and misbranding of G & O cedar moth balls, G & O moth deodorant eggs, and G & O moth deodorant compacts. U. S. v. 36 Cans of Go-4, et al. Default decree of condemnation, forfeiture, and destruction. (I. & F. No. 1581. S. No. 264.)

The products involved in this seizure action were intended for use in the control of insects and fungi (bacteria). The product labeled Go-4 was found to contain a smaller amount of nicotine sulphate (one of the effective ingredients) and a greater amount of inert material (the ineffective ingredients) than declared on the label. The labels of the remaining products were found to contain false and misleading claims for the effectiveness of the article in the control of insects or fungi.

On April 21, 1932, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of thirty-six 1-pound cans of Go-4, 864 G & O cedar moth balls, 288 G & O moth deodorant eggs, and forty-eight 1-pound cans of G & O moth deodorant compacts at Schenectady, N. Y. It was alleged in the libel that the article had been shipped on or about February 10, 1932, by Goulard & Olenia (Inc.) from Jersey City, N. J., that having been so transported they remained unsold in the original unbroken packages at Schenectady, N. Y.; that they were insecticides or fungicides within the meaning of the insecticide act of 1910, and that the Go-4 was adulterated and misbranded and the remaining products misbranded within the meaning of said act.

Adulteration of the Go-4 was alleged for the reason that the statements "Nicoteen Sulfate 10% * * * Inert Materials 27.6%," borne on the label, represented that the standard and quality of the article were such that it contained nicotine sulphate in the proportion of not less than 10 per cent and contained inert ingredients, i. e., substances that do not prevent, destroy, repel, or mitigate insects or fungi, in the proportion of not more than 27.6 per cent; whereas the strength and purity of the article fell below the professed standard under which it was sold, in that it contained less than 10 per cent of nicotine sulphate and more than 27.6 per cent of inert ingredients.

Misbranding of the said Go-4 was alleged for the reason that the statements, "Nicoteen Sulfate 10% * * * Inert Materials 27.6%," borne on the labels, were false and misleading, and by reason of the said statements the article

was labeled as aforesaid so as to deceive and mislead the purchaser, since the article contained less than 10 per cent of nicotine sulphate and more than 27.6 per cent of inert ingredients.

Misbranding of the G & O cedar moth balls was alleged for the reason that the statements, (label on cartons) "Cedar Moth Ball * * * Effective Protection * * * In Cellars. G & O Cedar Moth Balls will aid as repellent to spiders and other insects * * * Simply hang the G & O Cedar Moth Ball in closet, attic, * * * Or wherever clothes are stored. Also place in linen closets, upholstery, * * * Between blankets or on shelves," and (label on envelop) "Hang Me in your clothes Closet or wherever you have Moths," were false and misleading, and by reason of the said statements the article was labeled so as to deceive and mislead the purchaser, in that they represented that the article, when used as directed, would furnish effective protection against moths under all conditions, and would act as a repellent against spiders and other insects; whereas the article, when used as directed, would not be effective for the said purposes.

Misbranding of the G & O moth deodorant eggs was alleged for the reason that the statements, "G & O Moth Deodorant Egg Destroys Moths. Creates Healthy Refreshing Atmosphere * * * Invaluable for Eliminating Any Kind of an Unpleasant Odor," borne on the carton labels, were false and misleading, and by reason thereof the article was labeled so as to deceive and mislead the purchaser, in that they represented that the article, used as directed, would destroy moths under all conditions, would create healthy, refreshing atmosphere, and would eliminate all odors; whereas the article would not be effective for the said purposes.

Misbranding of the said G & O moth deodorant compacts was alleged for the reason that the statements, "Creates a * * * Sanitary Atmosphere * * * Moths—Simply Place a G & O Compact in Clothes Closet, * * * Pockets of Clothes, * * * Make a small three (3'') inch slit in the bottom and back of upholstered furniture and insert a G & O Compact," borne on the can label, were false and misleading, and by reason thereof the article was labeled so as to deceive and mislead the purchaser, in that they represented that the article, when used as directed, would create a sanitary atmosphere, and would be effective against moths under all conditions; whereas the article, when used as directed, would not be effective for the said purposes.

On June 27, 1932, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

HENRY A. WALLACE, *Secretary of Agriculture.*

1252. Adulteration and misbranding of #2 Pinasol. U. S. v. James H. Wilkinson (Commercial Chemical Co.). Plea of guilty. Fine, \$25. (I. & F. No. 1588. Dom. No. 32602.)

This action was based on the interstate shipment of a quantity of "#2 Pinasol," a product which was represented to consist of pine oil with 15 per cent of water present as an inert ingredient. Examination showed that mineral oil, an undeclared inert ingredient, had been substituted in large part for pine oil.

On August 17, 1932, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against James H. Wilkinson, trading as the Commercial Chemical Co., Los Angeles, Calif., alleging shipment by said defendant in violation of the insecticide act of 1910, on or about January 28, 1932, from the State of California into the State of New Mexico, of a quantity of "#2 Pinasol," which was an adulterated and misbranded fungicide within the meaning of the said act.

It was alleged in the information that the article was adulterated in that the statements, "#2 Pinasol A water soluble pine oil * * * Inert Water not over 15%," borne on the label of the drum containing the article, represented that it was a water-soluble pine oil and that it contained water only, as an inert ingredient; whereas the strength and purity of the article fell below the professed standard under which it was sold, since it was not a water-soluble pine oil, but was a mixture of mineral oil, pine oil, soap, and water, and it contained mineral oil as an inert ingredient in addition to water. Adulteration was alleged for the further reason that mineral oil had been substituted in large part for pine oil.

Misbranding was alleged for the reason that the statements above quoted, borne on the said drum label, were false and misleading, and by reason thereof

the article was labeled so as to deceive and mislead the purchaser, since the said statements represented that the article was a water-soluble pine oil and that it contained water only, as an inert ingredient, whereas it was a mixture of mineral oil, pine oil, soap, and water, and contained mineral oil as an inert ingredient in addition to water.

On September 30, 1932, the defendant entered a plea of guilty to the information, and the court entered judgment imposing a fine of \$75. On November 15, 1932, an order was entered by the court modifying the said judgment, reducing the fine to \$25.

HENRY A. WALLACE, *Secretary of Agriculture.*

1253. Adulteration and misbranding of Acme Bordeaux mixture. U. S. v. 26 Cases of Acme Bordeaux Mixture. Default decree of condemnation, forfeiture, and destruction. (I. & F. No. 1590. S. No. 277.)

This action involved an interstate shipment of Bordeaux mixture, a product intended for use in the control of fungous diseases of plants. Examination showed that the article contained less copper (the effective ingredient) and more inert (ineffective) ingredients than declared in the labeling.

On June 2, 1932, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 26 cases, each containing six 4-pound bags of Acme Bordeaux mixture.

It was alleged in the libel that the article had been shipped on or about February 12, 1932, by the Sherwin-Williams Co., Bound Brook, N. J., to Jacksonville, Fla., that having been so transported it remained unsold in the original unbroken packages at Jacksonville, Fla., and that it was an adulterated and misbranded fungicide within the meaning of the insecticide act of 1910.

Adulteration of the article was alleged in the libel for the reason that the statements, "Active Ingredients. Copper 12¾% Inert Ingredients 87¼%," borne on the label, represented that the article consisted of copper in the proportion of not less than 12¾ per cent, and consisted of inert ingredients, namely, substances that do not prevent, destroy, repel, or mitigate fungi, in the proportion of not more than 87¼ per cent; whereas the strength and purity of the article fell below the professed standard and quality under which it was sold, in that it contained less than 12¾ per cent of copper and more than 87¼ per cent of inert ingredients.

Misbranding was alleged for the reason that the statements, "Active Ingredients, Copper 12¾% Inert Ingredients 87¼%," borne on the label, were false and misleading, and by reason of the said statements the article was labeled so as to deceive and mislead the purchaser, since the said article contained less copper and more inert ingredients than so labeled.

On June 30, 1932, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

HENRY A. WALLACE, *Secretary of Agriculture.*

1254. Adulteration and misbranding of tobacco dust. U. S. v. Ten 100-Pound Bags of Tobacco Dust. Default decree of condemnation, forfeiture, and destruction. (238-A. I. & F. No. 1592.)

This action involved a shipment of tobacco dust, a product intended for use in the control of insects, which was found to contain a smaller proportion of nicotine (the effective ingredient) and a larger proportion of inert (ineffective) ingredients than declared on the labels.

On May 28, 1932, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of ten 100-pound bags of the said tobacco dust. It was alleged in the libel that the article had been shipped on or about May 16, 1932, by C. W. Muller from San Francisco, Calif., to Portland, Oreg., that having been so transported it remained in the original unbroken packages at Portland, Oreg., and that it was an adulterated and misbranded insecticide within the meaning of the insecticide act of 1910.

Adulteration of the article was alleged in the libel for the reason that its strength or purity fell below the professed standard or quality under which it was sold.

Misbranding was alleged for the reason that it was labeled, "Active Ing. Nicotine not less than 1.00% Inert Ing. Ground Tobacco not more than 99.00%," whereas the article contained less than 1 per cent of nicotine and more than 99 per cent of inert ingredients.

On July 18, 1932, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

HENRY A. WALLACE, *Secretary of Agriculture.*

1255. Misbranding of carbolic acid. U. S. v. McKesson-Langley-Michaels Co. (Ltd.). Plea of guilty. Fine, \$50. (I. & F. No. 1595. C. P. No. 32213.)

This action was based on the interstate shipment of a quantity of carbolic acid, an article used in the control of fungi (bacteria), which contained inert ingredients which were not plainly and correctly declared on the label as required by law.

On September 7, 1932, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against McKesson-Langley-Michaels Co. (Ltd.), a corporation, San Francisco, Calif., alleging shipment by said company in violation of the insecticide act of 1910, on or about February 9, 1931 and June 11, 1931, from the State of California into the State of Texas, of a quantity of carbolic acid that was misbranded.

It was alleged in the information that the article was misbranded in that it consisted partially of inert substances, i. e., substances other than carbolic acid, that is to say, substances that do not prevent, destroy, repel, or mitigate fungi (bacteria), and the name and percentage amount of the said inert substances so present in the article were not stated plainly and correctly on the labels affixed to the bottles containing the said article; nor, in lieu thereof, were the name and percentage amount of the substance or ingredient of the article having fungicidal (bactericidal) properties, and the total percentage of the inert substances or ingredients so present therein stated plainly and correctly on the said labels.

On September 24, 1932, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50.

HENRY A. WALLACE, *Secretary of Agriculture.*

1256. Misbranding of Reeves' Pestfoe. U. S. v. Four 50-Pound Bags, et al., of Reeves' Pestfoe. Default decree of condemnation, forfeiture, and destruction. (I. & F. No. 1596. S. No. 284.)

This action involved the interstate shipment of quantities of a product known as Reeves' Pestfoe. Certain statements in the labeling represented that the article would be effective in the control of insect and other pests, whereas it was valueless for such purposes when used as directed. The article was entirely inert when used according to directions and failed to bear on the container an inert ingredient statement as required by law.

On July 22, 1932, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of four 50-pound bags and forty-eight 5-pound cartons of Reeves' Pestfoe. It was alleged in the libel that the article had been shipped in interstate commerce from Tacoma, Wash., to Oregon City, Ore., that it had been shipped in two consignments on or about February 2 (23), 1932 and March 2, 1932, respectively, by the Growers Products Corporation, that it remained in the original unbroken packages at Oregon City, Ore., and that it was a misbranded insecticide within the meaning of the insecticide act of 1910.

It was alleged in the libel that the article was misbranded in that it consisted entirely of inert ingredients and the label did not bear a statement of the name and percentage amount of each and every inert ingredient present in the article and the fact that it was inert. Misbranding was alleged for the further reason that the following statements, appearing on the label and in a circular shipped with the article, were false and misleading and tended to deceive and mislead the purchaser: (Label) "Pestfoe;" (circular) "Pestfoe The Pest-ridding Plant Food * * * Twenty years of experimenting * * * finally resulted in the product now known as 'Pestfoe,' the Pest Ridding Plant Food,

which during the last few years has produced many truly marvelous results. After a proper feeding of 'Pestfoe' with no other fertilizer and no spraying, Apple, Peach, Plum and Cherry trees have been freed of insects, scale, and fungus and have produced almost perfect fruit. Hawthorn trees, roses, snowball bushes, bulbs of various kinds, ferns, cauliflower, radishes, and numerous other plants have apparently been made immune from the attacks of aphids, worms, rodents and other pests. * * * It is not claimed that "Pestfoe" is a positive cure for all plant ailments but it has not yet failed when properly fed. It is a * * * pest repellent. * * * It is repulsive and repellent to * * * worms and insects that attack the roots. When carried to the bark and leaves it has a like effect on the insects that attack these parts of the plant."

On November 16, 1932, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

HENRY A. WALLACE, *Secretary of Agriculture.*

1257. Misbranding of lime-sulphur solution. U. S. v. Henry A. Bester, jr. and J. Alvey Long (Hagerstown Spray Material Co.). Plea of guilty. Fine, \$250 and costs. (I. & F. No. 1597. Dom. No. 42277.)

This case was based on the interstate shipment of a quantity of lime-sulphur solution, a product intended for use in the control of insects and fungi, which contained inert ingredients not plainly and correctly stated on the label as required by law.

On October 15, 1932, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against Henry A. Bester, jr. and J. Alvey Long, copartners, trading as the Hagerstown Spray Material Co., Hagerstown, Md., alleging shipment by said defendants in violation of the insecticide act of 1910, on or about April 6, 1932, from the State of Maryland into the State of Pennsylvania, of a quantity of lime-sulphur solution which was a misbranded insecticide and fungicide within the meaning of the said act.

It was alleged in the information that the article was misbranded in that it consisted partially of an inert substance, water, i. e., a substance that does not prevent, destroy, repel, or mitigate insects or fungi, and the name and percentage amount of the said inert substance so present in the article were not stated plainly and correctly, or at all, on any label or tag affixed to the drums containing the article; nor, in lieu thereof, were the name and percentage amount of each and every substance or ingredient of the article having insecticidal or fungicidal properties, and the total percentage of the inert ingredients present therein, stated plainly and correctly, or at all, on the label.

On October 25, 1932, a plea of guilty was entered to the information, and the court imposed a fine of \$250 and costs.

HENRY A. WALLACE, *Secretary of Agriculture.*

1258. Adulteration and misbranding of D. L. S. dust. U. S. v. 33 Drums of D. L. S. Dust. Default decree of forfeiture and destruction. (Sample No. 9281-A. I. & F. No. 1600.)

This case involved a consignment of D. L. S. dust which contained arsenic and which was an insecticide, other than Paris green or lead arsenate and a fungicide. The label of the article failed to state the amount of total arsenic present, the amount of arsenic in water-soluble form, and the inert ingredient present, as required by law. Analysis showed that the article contained a substance that would be injurious to vegetation.

On September 22, 1932, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 33 drums of the said D. L. S. dust. It was alleged in the libel that the article had been transported in interstate commerce by the Sherwin-Williams Co., from Bound Brook, N. J., into the State of Massachusetts, on or about June 21 and July 6, 1932, that having been so transported it remained unsold in the original unbroken packages at Fitchburg, Mass., and that it was adulterated and misbranded within the meaning of the insecticide act of 1910.

Adulteration of the article was alleged in the libel for the reason that it was intended for use on vegetation and contained a substance which is injurious to vegetation when used.

It was further alleged in the libel that the article was misbranded in the case of insecticides other than Paris green and lead arsenate, and fungicides, in that it contained arsenic and did not have the total amount of arsenic, expressed as per centum of metallic arsenic, stated on the label; for the further reason that it contained arsenic in water-soluble form and did not have the total amount thereof, expressed as per centum of metallic arsenic, stated on the label; and in that it consisted partially of inert substances (substances other than sulphur, calcium polysulphide, calcium thiosulphate and lead arsenate), which said inert substances do not prevent, destroy, repel, or mitigate insects or fungi, and did not have the name and percentage amount of each and every one of the said inert substances present therein stated plainly and correctly on the label; nor, in lieu thereof, were the name and percentage amount of each and every ingredient having insecticidal or fungicidal properties, and the total percentage of inert ingredients, stated on the label.

On November 3, 1932, no claimant having appeared for the property, judgment of forfeiture was entered and it was ordered by the court that the product be destroyed by the United States marshal.

HENRY A. WALLACE, *Secretary of Agriculture.*

1259. Misbranding of Union fly oil and Carbicide. U. S. v. Union Control Corp., J. P. S. Strickler and Dean G. Strickler. Dean G. Strickler arraigned; jury waived; plea, not guilty. Tried to the court. Judgment of not guilty. Plea of nolo contendere entered by J. P. S. Strickler. Fine, \$30. (I. & F. No. 1540. Dom. Nos. 3391, 9627, 9698, 20167, 20168, 20169.)

This case was based on the interstate shipment of quantities of Union fly oil and Carbicide, products intended for use in the control of insects. Examination of the Union fly oil showed that it was not effective in the control of certain insects for which it was recommended in the labeling; also that it was not harmless and was not 100 per cent active as claimed. Sample cans taken from the shipment of Carbicide and two of the three shipments of Union fly oil were found to contain less than the volume declared on the label.

On May 18, 1931, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against the Union Control Corporation, J. P. S. Strickler, and Dean G. Strickler, all of Coudersport, Pa., alleging shipment by said defendants, in violation of the insecticide act of 1910, from the State of Pennsylvania into the State of New York, of quantities of Union fly oil and Carbicide that were misbranded. The information charged 3 separate shipments of Union fly oil, namely, 2 shipments of half-gallon cans on or about April 30, 1930, and June 24, 1930, and 1 shipment of gallon cans on or about June 17, 1930; and a quantity of gallon, half-gallon, and quart cans of Carbicide on or about June 24, 1930.

It was alleged in the information that the Union fly oil was misbranded in that the statements, "Keep Flies Away from Live Stock with Union Fly Oil," "For Horses * * * Also spray the stalls and manure pits," "It is harmless and will not burn the animal," and "100% Active," borne on the can labels, were false and misleading, and by reason of the said statements the article was labeled so as to deceive and mislead the purchaser, since they represented that the article, when used as directed, would be an effective remedy against all varieties of flies that infest or attack livestock, and would in all cases be effective against flies in stalls and manure pits; that the article was harmless and would not burn the animal and that it was 100 per cent efficient, whereas the said article, when used as directed, would not be an effective remedy against all varieties of flies that infest or attack livestock, and would not in all cases be effective against flies in stalls and manure pits; it was not harmless, but would burn the animal, if applied freely, and was not 100 per cent efficient. Misbranding was alleged with respect to the gallon and a portion of the half-gallon cans of Union fly oil and the gallon, half-gallon, and quart cans of Carbicide, for the reason that the statement, "1 Gallon Net," " $\frac{1}{2}$ Gallon Net," with respect to the Union fly oil, and the statements, "Contents One Quart," " $\frac{1}{2}$ Gallon Net," and "1 Gallon Net," with respect to the Carbicide, borne on the respective labels, represented that the said cans contained 1 quart, one-half gallon, or 1 gallon, of the articles; whereas the contents of the said cans were not plainly and correctly stated in terms of measure on the outside of the cans, since they contained less than represented.

On June 3, 1931, when the case was called, J. P. S. Strickler had not been apprehended. Defendant Dean G. Strickler appeared without counsel, was arraigned, entered a plea of not guilty, and waived a jury. No witnesses were called, and the court, after hearing statements by a representative of this department, and by the defendant, found Dean G. Strickler not guilty.

At the Harrisburg term of court held in December, 1932, defendant J. P. S. Strickler was arraigned, and with leave of court entered a plea of *nolo contendere*. On January 20, 1933, the court imposed a fine of \$30.

HENRY A. WALLACE, *Secretary of Agriculture*.

1260. Misbranding of Carbicide. U. S. v. J. P. S. Strickler (Chemical Insect Service (Inc.)). Plea of guilty. Fine, \$20. (I. & F. No. 1572. Dom. Nos. 30843, 30874.)

This action was based on the shipment of a quantity of an insecticide known as Carbicide, sample cans of which were found to contain less than 1 gallon, the volume declared on the label.

On April 9, 1932, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against J. P. S. Strickler, trading as the Chemical Insect Service (Inc.), Montgomery, Pa., alleging shipment by said defendant in violation of the insecticide act of 1910, on or about May 26, 1931, from the State of Pennsylvania into the State of Delaware, of a quantity of Carbicide that was misbranded.

It was alleged in the information that the article was misbranded in that the statement, "1 Gallon Net," borne on the can label, represented that each of the said cans contained 1 gallon of the article, whereas the contents of each of the said cans were not plainly and correctly stated in terms of measure on the outside thereof, in that each of the cans contained less than 1 gallon net of the article.

At the Harrisburg term of court held in December, 1932, the defendant entered a plea of guilty to the information. On January 20, 1933, the defendant was sentenced to pay a fine of \$20.

HENRY A. WALLACE, *Secretary of Agriculture*.

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